

CLD-63

November 30, 2006

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 06-3139

EDMUND F. BAILEY

v.

THOMAS CARROLL

(District of Delaware Civil No. 05-cv-00002)

Present: RENDELL, SMITH and COWEN, Circuit Judges .

Submitted are:

1. Appellant's request for a certificate of appealability under 28 U.S.C. 2253(c)(1);
2. Appellant's amendment to petition for certificate of appealability; in the above-captioned case.

Respectfully,

Clerk

MMW/SRF/par

O R D E R

The request for a certificate of appealability is denied. The district court correctly characterized appellant's current habeas claims as Fourth Amendment challenges and correctly found habeas review of those claims to be barred by Stone v. Powell, 428 U.S. 465, 494 (1976). Appellant was afforded an opportunity to fully and fairly litigate his Fourth Amendment claims in state court. Thus, appellant has failed to demonstrate that the district court's conclusion would be debatable among jurists of reason. See 28 U.S.C. § 2253(c)(2); see also Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003).



*Marcia M. Waldron*

Marcia M. Waldron, Clerk

By the Court,

/s/ Marjorie O. Rendell

Circuit Judge

Dated: January 18, 2007

par/cc: Mr. E.F.B.

G.E.S., Esq.